

**PHYSICAL THERAPY GOVERNING BOARD  
OFFICE OF LICENSED ALLIED HEALTH PROFESSIONALS  
CONCORD, NEW HAMPSHIRE**

**In The Matter Of:**

**Docket #05-2014**

**Laurice A. Nitschke, PT**  
**(Adjudicatory/Disciplinary Proceeding)**

**DECISION AND ORDER**

**By the Board:** Ronald Fuller, PTA, Chair, Gillian Cavezzali, PT, Nicole Lavoie, PT, Martha B. Aguiar, Public Member, and Lea Bruch, Public Member

**Also present:** Tina M. Kelley, Administrator to the Board

**Appearances:** Laurice A. Nitschke, PT and George S. Nitschke

On October 15, 2014, the New Hampshire Physical Therapy Governing Board ("Board") held a hearing in the matter of Laurice A. Nitschke, PT ("Ms. Nitschke" or "Respondent") pursuant to the Board's "Notice of Hearing". The hearing was held in accordance with RSA 328-F:23, RSA 328-F: 24, RSA 541-A, Ahp 200 and Phy 200. Ms. Nitschke appeared *pro se*.

**Background Information**

1. The New Hampshire Physical Therapy Governing Board ("Board") first granted Laurice A. Nitschke, P.T. a license to practice physical therapy in the State of New Hampshire in June of 2002. The Respondent holds license number 2774.

2. In November of 2012, the Respondent filed her biennial renewal application form, 2013-14. On that application, she was asked whether she had been "fired for cause . . . from a position . . . ." since January of 2011. The Respondent reported two adverse employment actions. Based on that disclosure, and the fact that the Respondent also reported employment

actions on her 2004 and 2010 renewal applications, the Board, pursuant to RSA 328-F:24, commenced an investigation concerning the Respondent's history of employment issues to determine whether the Respondent committed professional misconduct under RSA 328-F:23, II.

3. Based upon the information gathered during the investigation the Board obtained additional background information as outlined herein.

- A. In November of 2005, the Respondent was employed by Therapy Resource Management ("TRM") of Fall River, MA and was assigned to provide staff services at the Oakdale Rehabilitation & Skilled Nursing Center ("Oakdale") located in West Boylston, MA. On November 30, 2005, TRM issued to the Respondent a "final written notice" after investigation of her interaction with a patient that involved forcing the patient to wear a brace. As part of TRM's corrective action measures, the Respondent was ordered to have supervision during all patient care until further notice.
- B. When the Respondent applied for license renewal in November of 2006, one of the application questions asked whether "for disciplinary reasons" she had "any privileges limited, suspended or revoked" while employed at a healthcare institution. The Respondent did not disclose the practice limitations that TRM imposed upon her in the preceding renewal period.
- C. In March of 2011, the Respondent was employed by staffing agency Voyage Healthcare of Heathrow, FL and assigned to provide physical therapy services

for an entity that operated two skilled nursing facilities (Blair House and Westside House) in Worcester, MA. The contract underlying that assignment was scheduled to run from March 31 to July 1, 2011. The Worcester entity terminated its contract with Voyage Healthcare early on May 25, 2011 for what the entity reported to be the Respondent's unprofessional behavior.

- D. When the Respondent applied for license renewal in November of 2012, one of the application questions asked whether "for disciplinary reasons" she had been "fired for cause . . . from a position at your place of employment . . . ." On the renewal application, the Respondent reported that she was employed by Voyage Healthcare from March 31 to July 1, 2011. She did not disclose that the contract terminated early for reasons related to her behavior.
- E. In February of 2013, the Respondent obtained employment with Home Healthcare, Hospice & Community Services ("HCS") of Keene, NH where she remained employed until May of 2013. The Respondent did not notify the Board of her employment with HCS.
- F. In August of 2013, the Respondent obtained employment with staffing agency Core Medical Group ("CMG") of Salem, NH and was placed with a home health agency in Rockland, MA. The Respondent did not notify the Board of her employment with CMG or where she was placed by CMG.
- G. In October of 2013, the Respondent obtained employment with Jackson Therapy Partners ("JTP") of Orlando, FL and was placed with a home health

agency in Lancaster, NH. The Respondent did not notify the Board of her employment with JTP or where she was placed by JTP.

- H. During the Respondent's employment with HCS, which began on February 11, 2013 and ended with her termination on May 2, 2013, she was the subject of several patient related complaints. One complaint, filed by a patient's husband, reported that the Respondent directed him to be quiet during a therapy session at the patient's home. In a second complaint, a patient reported that the Respondent required her to perform a walking exercise against her wishes. On May 1, 2013, a third patient complaint reported that the Respondent had been late for multiple scheduled appointments. On May 2, 2013, a fourth patient complained that the Respondent pushed her too hard during exercises, was "ruff and gruff" in her demeanor, and spent too much time typing on her computer during the therapy session.
- I. HCS terminated the Respondent while she was still serving her probationary period, because of the "unusual number" of patient complaints received against her within a relatively short period of time. In response to the fourth complaint, and prior to the Respondent's termination, HCS further assessed client satisfaction by contacting additional clients that were treated by the Respondent. The feedback from those additional clients indicated that the Respondent seemed overly focused on completing her documentation during therapy

sessions which interfered with the sessions. HCS also determined from the patient information that the Respondent was gruff, not compassionate and pushy with clients.

An adjudicatory hearing commenced on October 15, 2014, the specific issues to be determined included but were not limited to:

- A. Whether the Respondent engaged in professional misconduct in violation of RSA 328-F:23, II(a) by failing to disclose on her 2006 renewal application that TRM took corrective action measures against her in November of 2005 when it required her to be supervised during patient care; and/or
- B. Whether the Respondent engaged in professional misconduct in violation of RSA 328-F:23, II(a) by failing to disclose on her 2012 renewal application that her employment placement through Voyage Healthcare was terminated early when the Worcester, MA healthcare institution where she was placed complained about her professional behavior; and/or
- C. Whether the Respondent engaged in professional misconduct in violation of RSA 328-F:23, II(j) by failing to notify the Board of her employment with HCS in accordance with RSA 328-F:21, I, which requires licensees to maintain their business address on file with the Board and notify the Board of any change in business address within thirty (30) days; and/or
- D. Whether the Respondent engaged in professional misconduct in violation of RSA 328-F:23, II(j) by failing to notify the Board of her employment with CMG in accordance with RSA 328-F:21, I, which requires licensees to maintain their

business address on file with the Board and notify the Board of any change in business address within thirty (30) days; and/or

- E. Whether the Respondent engaged in professional misconduct in violation of RSA 328-F:23, II(j) by failing to notify the Board of her employment with JTP in accordance with RSA 328-F:21, I, which requires licensees to maintain their business address on file with the Board and notify the Board of any change in business address within thirty (30) days; and/or
- F. Whether the Respondent engaged in professional misconduct in violation of RSA 328-F:23, II(c) by failing to comply with Principle #1(1A) of the APTA Code of Ethics during her treatment of HCS clients, which requires licensees to “act in a respectful manner” toward clients; and/or
- G. Whether the Respondent engaged in professional misconduct in violation of RSA 328-F:23, II(c) by failing to comply with Principle #2(2B) of the APTA Code of Ethics during her treatment of HCS clients, which requires licensees to “provide physical therapy services with compassionate and caring behaviors . . . .”; and/or
- H. If any of the above allegations are proven, whether and to what extent the Respondent should be subjected to one or more of the disciplinary sanctions authorized by RSA 328-F:23, IV.

At the hearing the Board reviewed numerous exhibits submitted with the Notice of Hearing.

The following exhibits were entered into evidence:

**Board Exhibits:**

Exhibit #1 – Therapy Resources Management, LLC Counseling Statement

Exhibit #2 – November 30, 2005 letter from Sandy Vandeputte to Ms. Nitschke

Exhibit #3 – 2006 License Renewal Application

Exhibit #4 – 2012 License Renewal Application

Exhibit #5 – May 13, 2014 E-mail from Selena Serrano to Attorney Jeffrey Cahill

Exhibit #6 – May 2, 2013 E-mail from Kathy Whitman to Gayle Murphy

Ms. Nitschke did not present any exhibits.

Attorney Michele Heaton moved to admit the *Stipulation of Facts* signed by Ms. Nitschke on October 7, 2014, see *Attachment #1*. The Board accepted the *Stipulation of Facts* into evidence.

At the hearing the Board heard testimony from the following individuals:

**Laurice A. Nitschke** testified before the Board that she wished to expand on the Stipulation of Facts. Ms. Nitschke stated that she did not realize that she had been disciplined by TRM because she never received any direct supervision and just kept working and that is why she never listed the discipline on her renewal form. At Blair House and Westside House she was only informed that her contract was ending. She stated that the recruiter that placed her never told her that the contract was ending due to unprofessional behavior. Ms. Nitschke went on to describe the conflicts she had with various clients citing that there were extenuating circumstances for each situation which would mitigate her responsibility in each case. When asked by a Board member if she would do anything differently she stated that she wouldn't spend so much time on the

computer and that she would respect the patient's rights and back off when situations became confrontational. She further stated that she would not keep to her goals but would listen to the patient and respect the fact that people have bad attitudes. She informed the Board that she is currently working within the school setting, K-12.

Ms. Nitschke informed the Board that she had many health issues that she felt contributed to her employment issues. In 1991 she had been in an accident that caused a traumatic head injury and since that time she has suffered with diabetes, hormonal imbalance, thyroid, high blood pressure, lyme disease, gluten intolerance, and ADD.

**George S. Nitschke** testified that Ms. Nitschke genuinely cares about her patients and that she is a good person.

**Applicable Laws:**

RSA 328-A:13, I:

I. Regulated persons and entities, including but not limited to licensees, insurance companies, health care organizations, and health care facilities, shall report to the board any conviction by a court of law or determination by an agency that a licensee has committed an act that constitutes a violation of this chapter.

RSA 328-F:21, I:

I. Licensees shall maintain their current business and home addresses on file with their governing boards. Any changes in address shall be provided to the office no later than 30 days from the date of the change.

RSA 328-F:23, II (a):

Knowingly or negligently providing inaccurate material information to the board or failing to provide complete and truthful material information upon inquiry by the board, including during the process of applying for a license, license renewal, and license reinstatement.

RSA 328-F:23, II(j):

(j) Violation of any provision of this chapter, of any governing board's practice act or rule adopted pursuant to RSA 541-A, or of any state or federal law reasonably related to the licensee's authority to practice or ability to practice safely.

RSA 328-F:23, II(c):

(c) Notification by the regulatory authority of another domestic or foreign jurisdiction that a licensee has been disciplined in that jurisdiction.

Phy 405.01(a):

(a) Knowingly or negligently providing inaccurate material information to the board or failing to provide complete and truthful material information upon inquiry by the board, including during the process of applying for a license, license renewal, or license reinstatement.

Phy 405.01(f):

(f) Failure to provide care with reasonable skill, safety and regard for client rights, whether or not the client has suffered injury.

Phy 405.01(k):

(i) Violation of:

- (1) Any provision of RSA 328-F;
- (2) Any provision of RSA 328-A;
- (3) Any rule adopted by the board; or
- (4) Any state or federal law reasonably related to the licensee's authority to practice or the licensee's ability to practice safely.

Principle #1 Code of Ethics for the Physical Therapist, 1A.:

1A. Physical therapists shall act in a respectful manner toward each person regardless of age, gender, race nationality, religion, ethnicity, social or economic status, sexual orientation, health condition, or disability.

Principle #2 Code of Ethics for the Physical Therapist, 2B.:

2B. Physical Therapists shall provide physical therapy services with compassionate and caring behaviors that incorporate the individual and cultural differences of patients/clients.

### **Findings of Fact and Rulings of Law:**

In light of the exhibits and testimony offered, the Board made the following findings of fact and rulings of law:

- The Respondent engaged in professional misconduct by failing to disclose on her 2006 renewal application that TRM took corrective action measures against her in

November of 2005 when it required her to be supervised during patient care in violation of RSA 328-F:23, II(a); RSA 328-F:23, II(j); Phy 405.01(a); Phy 405.01(k).

- The Respondent engaged in professional misconduct by failing to disclose on her 2012 renewal application that her employment placement through Voyage Healthcare was terminated early when the Worcester, MA healthcare institution where she was placed complained about her unprofessional behavior in violation of RSA 328-F:23, II(a); RSA 328-F:23, II(j); Phy 405.01(a); Phy 405.01(k).
- The Respondent engaged in professional misconduct by failing to notify the Board of her employment with HCS in accordance with RSA 328-F:21, I, which requires licensees to maintain their business address on file with the Board and notify the Board of any change in business address within thirty (30) days in violation of RSA 328-F:21, I; RSA 328-F:23, II(a); RSA 328-F:23, II(j); Phy 405.01(a); Phy 405.01(k).
- The Respondent engaged in professional misconduct by failing to notify the Board of her employment with CMG in accordance with RSA 328-F:21, I, which requires licensees to maintain their business address on file with the Board and notify the Board of any change in business address within thirty (30) days in violation of RSA 328-F:21, I; RSA 328-F:23, II(a); RSA 328-F:23, II(j); Phy 405.01(a); Phy 405.01(k).
- The Respondent engaged in professional misconduct by failing to notify the Board of her employment with JTP in accordance with RSA 328-F:21, I, which requires

licensees to maintain their business address on file with the Board and notify the Board of any change in business address within thirty (30) days in violation of RSA 328-F:21, I; RSA 328-F:23, II(a); RSA 328-F:23, II(j); Phy 405.01(a); Phy 405.01(k).

- The Respondent engaged in professional misconduct by failing to comply with Principle #1(1A) of the APTA Code of Ethics during her treatment of HCS clients, which requires licensees to “act in a respectful manner” toward clients, when she forced a patient at TRM to wear a brace and at HCS she directed a patients husband to be quiet during a therapy session at the patient’s home, during a second incident required a patient to perform a walking exercise against the patient’s wishes and during a third incident pushed a patient too hard during exercises, was “ruff and gruff” in her demeanor, and spent too much time typing on her computer, in violation of RSA 328-F:23, II(j); Phy 405.01(k); and Principle #1(1A).
- The Respondent engaged in professional misconduct by failing to comply with Principle #2(2B) of the APTA Code of Ethics during her treatment of HCS clients, which requires licensees to “provide physical therapy services with compassionate and caring behaviors . . . ,” when she directed a patients husband to be quiet during a therapy session, was “ruff and gruff” with another patient, and was pushy with patients during therapy sessions in violation of RSA 328-F:23, II(j); Phy 405.01(k); and Principle #2(2B).

Based upon the findings of fact and rulings of law, the Board voted to order the following:

THEREFORE IT IS ORDERED, that Ms. Nitschke shall be fined \$750.00 to be paid to the Board's office within 90 days of the date this final Decision and Order takes effect. The check shall be made payable to the Treasurer, State of New Hampshire.

IT IS FURTHER ORDERED, that if the \$750.00 fine is not received in the Board's office within 90 days of the date of this Decision and Order Ms. Nitschke's license to practice will be immediately "Suspended".

IT IS FURTHER ORDERED, that Ms. Nitschke's license is conditioned on an immediate requirement that she obtain a Supervisor.

IT IS FURTHER ORDERED, that before Ms. Nitschke practices under her license she must submit to the Board a supervision form as described in Phy 404.05.

IT IS FURTHER ORDERED, that the supervisor shall meet the requirements outlined in Phy 404.03.

IT IS FURTHER ORDERED, the first 40 hours of supervision shall be 75% Direct Personal Supervision as described in Phy 302.04 and 25% Direct Supervision as described in Phy 302.05. At the end of the 40 hours Ms. Nitschke's supervisor will submit to the Board within 7 days a report which includes a description of:

- The organization;
- The services Ms. Nitschke provided;
- Ms. Nitschke's interpersonal relationships with clients/patients, clients/patients families, co-workers, and other health care providers;

- Ms. Nitschke's clinical skills; and
- Any and all recommendations the Supervisor has regarding Ms. Nitschke's performance and whether or not Ms. Nitschke should advance to the next step in supervision.

The Board Chair or her designee shall review the report and either authorize Ms. Nitschke to move to the second step in supervision or if the report indicates Ms. Nitschke has not met expectations authorize the immediate suspension of her license.

IT IS FURTHER ORDERED, that if Ms. Nitschke obtains a satisfactory recommendation from her Supervisor and is granted the approval of the Board Chair Ms. Nitschke shall be supervised for the next 80 hours under 50% Direct Personal Supervision and 50% Direct Supervision. At the end of the 80 hours Ms. Nitschke's supervisor will submit to the Board within 7 days a report which includes a description of:

- The organization;
- The services Ms. Nitschke provided;
- Ms. Nitschke's interpersonal relationships with clients/patients, clients/patients families, co-workers, and other health care providers;
- Ms. Nitschke's clinical skills; and
- Any and all recommendations the Supervisor has regarding Ms. Nitschke's performance and whether or not Ms. Nitschke should advance to the next step in supervision.

The Board Chair or her designee shall review the report and either authorize Ms. Nitschke to move to the third step in supervision or if the report indicates Ms. Nitschke has not met expectations authorize the immediate suspension of her license.

IT IS FURTHER ORDERED, that if Ms. Nitschke obtains a satisfactory recommendation from her Supervisor and is granted the approval of the Board Chair, Ms. Nitschke shall be supervised for the next 120 hours under Direct Supervision. At the end of the 120 hours Ms. Nitschke's supervisor will submit to the Board within 7 days a report which includes a description of:

- The organization;
- The services Ms. Nitschke provided;
- Ms. Nitschke's interpersonal relationships with clients/patients, clients/patients families, co-workers, and other health care providers;
- Ms. Nitschke's clinical skills; and
- Any and all recommendations the Supervisor has regarding Ms. Nitschke's performance and whether or not Ms. Nitschke should advance to the next step in supervision.

The Board Chair or her designee shall review the report and either authorize Ms. Nitschke to move to the fourth step in supervision or if the report indicates Ms. Nitschke has not met expectations authorize the immediate suspension of her license.

IT IS FURTHER ORDERED, that if Ms. Nitschke obtains a satisfactory recommendation from her Supervisor and is granted the approval of the Board Chair Ms. Nitschke shall be

supervised for the next 240 hours under General Supervision. After every 40 cases or more often, if Ms. Nitschke's supervisor deems it appropriate, Ms. Nitschke shall have a face to face conference with her supervisor. The conference shall be at least 1 hour in duration. At the end of the 120 hours Ms. Nitschke's supervisor will submit to the Board within 7 days a report which includes a description of:

- The organization;
- The services Ms. Nitschke provided;
- Ms. Nitschke's interpersonal relationships with clients/patients, clients/patients families, co-workers, and other health care providers;
- Ms. Nitschke's clinical skills;
- A report outlining the conferences including dates, times, and topics of discussion;  
and
- Any and all recommendations the Supervisor has regarding Ms. Nitschke's performance and whether or not Ms. Nitschke should advance to the next step in supervision.

The Board Chair or her designee shall review the report and if the report indicates Ms. Nitschke has not met expectations authorize the immediate suspension of her license.

IT IS FURTHER ORDERED, that once Ms. Nitschke completes the supervision she must maintain continuous employment for the next 6 months free of any reportable disciplinary actions by her employer or any other State agency.

IT IS FURTHER ORDERED, that if Ms. Nitschke fails to achieve a recommendation from her supervisor that she should move to the next level of supervision that the Board's Chair will authorize her license to be immediately Suspended. The Board shall issue a Notice of Hearing within 120 days of the reported adverse report.

IT IS FURTHER ORDERED, that Ms. Nitschke will take and pass the Board issued jurisprudence exam within 30 days of the date of this order.

IT IS FURTHER ORDERED, that Ms. Nitschke will inform the Board of any change in home or business address(es) within 30 days of the date of the change in accordance with RSA 328-F:21.

IT IS FURTHER ORDERED, that Ms. Nitschke inform the Board within 15 days of any reportable disciplinary action(s) by her employer or any other State agency.

IT IS FURTHER ORDERED, that within fifteen (15) days of the effective date of this Decision and Order Ms. Nitschke shall furnish a copy of this Decision and Order to any current employer for whom she performs services as a Physical Therapist and to any agency or authority which licenses, certifies or credentials Physical Therapists, with which Ms. Nitschke is presently affiliated.

IT IS FURTHER ORDERED, that Ms. Nitschke shall furnish a copy of this Decision and Order to any employer and/or agency, or authority which licenses, certifies or credentials Physical Therapists one year from the effective date of this Decision and Order.

IT IS FURTHER ORDERED that Ms. Nitschke's breach of any terms and conditions of this Decision and Order shall constitute unprofessional conduct pursuant to RSA 328-F:23, II.

IT IS FURTHER ORDERED that this Decision and Order shall become a permanent part of Ms. Nitschke's file, which is maintained by the Board as a public document.

IT IS FURTHER ORDERED that this Decision and Order shall take effect as a final Order of the Board on the date it is signed by an authorized representative of the Board.

BY ORDER OF THE BOARD

A handwritten signature in cursive script, appearing to read 'Lea Bruch', written over a horizontal line.

Lea Bruch, Public Member, Acting Chair  
Authorized Representative of the  
Physical Therapy Governing Board

Date: November 19, 2014